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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,247	11/22/2000	Christoph Hermann	DE 000051	1685
24737	7590	11/29/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			NGUYEN, HUY D	
			ART UNIT	PAPER NUMBER
			2681	
DATE MAILED: 11/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/718,247

Applicant(s)

HERMANN ET AL.

Examiner

Huy D Nguyen

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/06/2004 have been fully considered but they are not persuasive.

First, the applicant stated that Smith does not teach the key change command includes a new cipher key. The examiner responds that the limitation "the first message being indicative of an initiation of a cipher key change" as broadly claimed in independent claims 9, 17, and 25 reads on "a key change command with an operational code" as taught in Smith (col. 3, lines 19-20). Secondly, the applicant stated that Smith fails to teach a specific coding of the acknowledgement (i.e., non data/voice). However, the preceding limitation (non data/voice) is found nowhere in the claims. Third, the applicant also stated that Smith fails to teach a transmission from the controller to the subscriber unit of either a message coded with the new cipher key as an indication that the acknowledgement was deciphered with the new cipher key by controller or a message coded with the base or old cipher key as an indication of a failure by controller to decipher the acknowledgement. The examiner responds that the preceding limitations are taught in Smith (col. 3, line 58 - col. 4, line 8).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. Patent No. 5,146,498).

Regarding claims 9, 13-14, 17, 21-22, 25, 27, 29, 31-33, 35-37, 39-40, Smith teaches a wireless network, comprising: a radio network controller (col. 3, line 22); and a terminal, wherein said radio network controller is operable to transmit a first message to said terminal, the first message being indicative of an initiation of a cipher key change (col. 3, lines 19-22), and wherein said terminal is operable to transmit a second message to said radio network controller subsequent to a reception of the first message by said terminal, the second message being coded with a new cipher key as an acknowledgement of the cipher key change by said terminal (col. 3, lines 43-50, lines 58-62).

Regarding claims 10, 18, Smith teaches the wireless network of claim 9, wherein the first message includes the new cipher key (col. 3, line 20).

Regarding claims 11-12, 19-20, 26, 30, 34, 38, Smith teaches the wireless network of claim 9, wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a deciphering by said radio network controller of the second message with the new cipher key (col. 3, lines 50-57).

Regarding claims 15-16, 23-24, 28, Smith teaches the wireless network of claim 9, wherein said radio network controller is operable to transmit a third message to said terminal subsequent to a reception of the second message by said radio network controller, the third message being indicative of a failure by said radio network controller to decipher the second message with the new cipher key (col. 3, line 67 – col. 4, line 8).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D Nguyen whose telephone number is 703-305-3283. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 703-308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huy Nguyen



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